

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STEVEN J. ABRAHAM, et al.

Plaintiffs,

v.

Case No. CIV-09-961 WDS/RLP

BP AMERICA PRODUCTION COMPANY,

Defendant.

ORDER DENYING BP'S MOTION FOR A NEW TRIAL

This matter came before the Court on Defendant BP's Motion for a New Trial pursuant to Federal Rule of Civil Procedure 59(a). (Document No. 333) Having considered the submissions and arguments of counsel, relevant law, and being otherwise fully advised, the Court finds the motion is not well taken and it is denied.

BP moves for a new trial on the grounds that the jury verdict in favor of Plaintiff resulted from the improper admission of evidence and lacked legally sufficient evidentiary support. Specifically, BP objects to the admission of evidence regarding the "processing allowance" required by regulations governing the payment of federal and Indian royalties and ConocoPhillips Company's ("COP") decision in January of 2007 to use the federal royalty payment methodology ("fed rate") to calculate and pay private royalties.

COP and BP were co-owners and operators of the New Blanco Plant, and there was evidence that COP charged its private royalty holders the fed rate—approximately two cents per gallon—to process natural gas at the plant. BP charged its private royalty holders approximately ten times more to process natural gas at the same plant. BP filed a motion in limine to exclude evidence of COP's use of the fed rate to calculate private royalties. (Document No. 191) The Court denied BP's motion

in limine. (Document No. 242) For the same reasons, which are adopted by reference, the Court finds that BP's Motion for a New Trial is not well taken.

IT IS THEREFORE ORDERED that BP's Motion for a New Trial is hereby denied.

A handwritten signature in black ink, appearing to read 'W.D. Schneider', is written above a horizontal line.

W. DANIEL SCHNEIDER
UNITED STATES MAGISTRATE JUDGE